

## Message Text

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ORIGIN OES-04

INFO OCT-01 IO-10 AF-06 ARA-06 EA-06 EUR-12 NEA-10 DLOS-03

EB-07 OFA-01 SCA-01 CIAE-00 DODE-00 PM-03 H-02 INR-07

L-02 NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 NSCE-00

SSO-00 USIE-00 INRE-00 SCS-03 ISO-00 /108 R

DRAFTED BY /OES/RJBETTAUER:SCH

APPROVED BY L - GHALDRICH

D/LOS - MR. ESKIN

EA/LC - MR. KIRKPATRICK

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O 192236Z MAY 75

FM SECSTATE WASHDC

TO ALL DIPLOMATIC POSTS IMMEDIATE

LIMITED OFFICIAL USE STATE 116548

E.O. 11652:N/A

TAGS: PFOR, US

SUBJECT: SEIZURE OF U.S. MERCHANT VESSEL BY CAMBODIAN FORCES

REF: STATE 113030

1. REPORTS FROM A FEW MISSIONS REVEAL UNCERTAINTY AS TO WHETHER MAYAGUEZ WAS SEIZED ON HIGH SEAS OR IN CAMBODIAN TERRITORIAL SEA. DEPARTMENT WANTS TO ENSURE THAT OTHER GOVERNMENTS ARE LEFT IN NO DOUBT ON THIS POINT. THEREFORE, IF POSTS HAVE ANY REASON TO BELIEVE HOST GOVERNMENT UNCLEAR, REQUEST APPROPRIATE CLARIFICATION BE GIVEN ALONG FOLLOWING LINES.

2. UNITED STATES MERCHANT SHIP MAYAGUEZ WAS SEIZED BY CAMBODIAN FORCES APPROXIMATELY SEVEN NAUTICAL MILES SOUTHWEST OF DISPUTED ISLAND OF POULO WAI. BOTH SOUTH VIETNAM AND CAMBODIA HAVE CLAIMED THIS ISLAND. SOUTH VIETNAM PREVIOUSLY CLAIMED TERRITORIAL SEA OF THREE NAUTICAL MILES. CAMBODIA PREVIOUSLY CLAIMED TERRITORIAL SEA OF TWELVE NAUTICAL MILES. HOWEVER, POSITIONS OF CURRENT GOVERNMENTS OF SOUTH VIETNAM

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BODIA HAVE CLAIMED THIS ISLAND. SOUTH VIETNAM PREVIOUSLY CLAIMED TERRITORIAL SEA OF THREE NAUTICAL MILES. CAMBODIA PREVIOUSLY CLAIMED TERRITORIAL SEA OF TWELVE NAUTICAL MILES. HOWEVER, POSITIONS OF CURRENT GOVERNMENTS OF SOUTH VIETNAM

AND CAMBODIA ARE UNCERTAIN.

3. UNITED STATES RECOGNIZES ONLY THREE NAUTICAL MILE TERRITORIAL SEA. AS SEIZURE OF MAYAGUEZ DID NOT TAKE PLACE WITHIN THREE NAUTICAL MILES OF ISLAND, UNITED STATES CONSIDERS THAT IT TOOK PLACE ON HIGH SEAS. UNDER CUSTOMARY INTER-

NATIONAL LAW AND UNDER 1958 GENEVA CONVENTION ON THE HIGH SEAS, THERE IS FREEDOM OF NAVIGATION ON HIGH SEAS. SEIZURE WAS THUS ILLEGAL.

4. UNITED STATES HAS NOT CHANGED ITS POSITION OF REJECTING CLAIMS OF TERRITORIAL SEA BEYOND THREE NAUTICAL MILES. HOWEVER, EVEN IF ONE WERE TO TAKE VIEW THAT TERRITORIAL SEA EXTENDS TWELVE NAUTICAL MILES AND THAT MAYAGUEZ WAS THEREFORE WITHIN TERRITORIAL SEA OF POULO WAI AT TIME OF SEIZURE, SHIP WOULD STILL HAVE BEEN ENTITLED TO EXERCISE RIGHT OF "INNOCENT PASSAGE," WHICH APPLIES TO PASSAGE OF TERRITORIAL SEA UNDER CUSTOMARY INTERNATIONAL LAW AND UNDER 1958 CONVENTION ON THE TERRITORIAL SEA AND THE CONTIGUOUS ZONE. THEREFORE, EVEN UNDER THIS VIEW, SEIZURE WAS ILLEGAL. INGERSOLL

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 26 AUG 1999  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** CARGO SHIPS, MAYAGUEZ SS, SHIP DETENTION  
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**Disposition Approved on Date:**  
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**Executive Order:** N/A  
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**Reference:** n/a  
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**Review Authority:** ElyME  
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**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006